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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,593	06/21/2000	John R Johnson	AVERP2580USA	7556

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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/598,593

Applicant(s)

JOHNSON ET AL.

Examiner

Victor S Chang

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 06 May 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): see attached NOTE.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 17-25.Claim(s) objected to: 7, 12-15.Claim(s) rejected: 1-6, 8-11 and 16.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300-1700

Daniel Zinker

NOTE

1. Applicant's After Final Response has been carefully reconsidered. Applicants argue that Johnson teaches a painting process for automobiles involves spraying and dipping, and these processes provide a single color to the article; further, Johnson does not specifically disclose, teach or suggest a fade print layer (Response, page 3, second paragraph). The Examiner finds such an argument persuasive. As such, the rejections of claims 1-25 in sections 3-5 of Paper No. 12 as to relied upon Johnson individually are withdrawn. However, the rejections of claims 1-6, 8-10 and 16 are still deemed proper under combined teachings of prior art references.

2. With respect to Applicants' argument that Ellison provides no motivation to one of ordinary skill in the art to produce a fade print layer, the Examiner reiterates (see page 2 of Paper No. 12) that Ellison teaches that decorative effects may be applied between the outer and inner layers, or both, by methods such as printing (gravure, screen or flexography), tinting, vacuum metallizing, etc. (column 7, lines 54-58). It is believed that Ellison's decorative effects either inherently encompass the fade print design of the instant claimed invention, or it is an obvious modification to one skilled in the art to make a fade print according to Ellison's suggestion, so as to obtain a special decorative effect.

3. In response to Applicants' argument that the rejection of claims 1 to 6, 8 to 10 and 16 is a pick and choose hindsight reasoning (Response, page 5 second paragraph), it must be recognized that any judgment on obviousness is in a sense

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necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

4. In view of the withdrawal of the rejection as relied upon Johnson individually, the Examiner now finds that claims 7, 12-15 are objected to as dependent upon rejected base claim, and 17-25 are allowable. It should also be noted that that claim 11 is now more properly deemed to be rejected under the combined teachings of Johnson in view of Ellison, and the Examiner regrets the earlier error, but believes that Applicants have not been significantly harmed.